

General Information

Contact: Jeff Deckler
Remedial Programs Manager
(Brownfields and Voluntary Cleanup)
303 692 3387

Mark Walker
Voluntary Cleanup and Redevelopment
Program
Targeted Brownfields Assessments
303 692 3449

Dan Scheppers
Colorado Brownfields Revolving Loan Fund
Voluntary Cleanup Tax Credits
303 692 3398

Barbara Nabors
State Incentives for Redevelopment of
Contaminated Land in Colorado
303 692 3402

Address: Colorado Department of Public Health and
Environment (CDPHE)
Hazardous Materials and Waste Management
Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Phone: Brownfields Site Assessments
303 692 3311
888 569 1831

Colorado Brownfields Revolving Loan Fund
303 692 3398
888 569 1831

State Incentives for Redevelopment of
Contaminated Land in Colorado
303 692 3449
888 569 1831

Fax: 303 691 7878

Web site: <http://www.cdphe.state.co.us/hm/rpbrownfields.asp>

Program Description (VCP, brownfields, or related)

Brownfields definition: Abandoned, idled, or underutilized industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

Program titles: The Voluntary Cleanup and Redevelopment Program (VCP)

Liability relief provisions: Colorado statute provides that CDPHE will actively pursue a determination by EPA that a property in the VCP not be addressed under the federal act and no further federal action will be taken with respect to the property at least until the voluntary cleanup plan is completely implemented.

Colorado statute provides that voluntary cleanup plans are not enforceable against a property owner (unless the owner fails to implement the plan after initiating a voluntary cleanup). In addition, information provided by a property owner to support a voluntary cleanup plan or no action petition does not give CDPHE an independent basis to seek penalties from the property owner pursuant to state environmental statutes or regulations.

Financial incentives (grants, loans, tax provisions, etc.):

- Colorado Brownfields Revolving Loan Fund
- Colorado Contaminated Land Redevelopment Tax Credit

Legislative or program site eligibility requirements: Colorado Brownfields Cleanup Revolving Loan Fund. Brownfields sites statewide are eligible.

The Fund may be used at sites that are:

- Publicly-owned, either directly by a municipality or indirectly through a quasi-public entity such as a community development corporation; and/or
- Privately-owned by current or prospective commercial property owners, banks, developers, etc.

The Fund may not be used at any sites:

- Listed, or proposed for listing, on the National Priorities List (NPL).
- That have or should have Resource Conservation Recovery Act (RCRA) permits.
- Subject to an order under the Clean Water Act.
- Underground Storage Tank (UST) sites at which a removal action is required to be taken, according to regulation, within six months.
- Where a federal or state agency is planning or conducting a response or enforcement action.

Cleanups must be approved by the Colorado VCP in order to be eligible to receive a loan through this program.

Colorado

Financial Elements

Assessment and cleanup funding (source, amount, relationship to VCP/brownfields programs, application process, eligibility requirements, dedication to special types of sites such as petroleum, dry cleaners, abandoned drug labs, etc.): Colorado Brownfields Revolving Loan Funds (see previous section)

Targeted Brownfields Assessments

- The state performs targeted site assessments to characterize the nature and extent of site contamination. This characterization is at no cost to the property owner, and provides assistance in quantifying the need for and potential cost of cleanup. Sites are eligible if they are not on the NPL or under enforcement or other action by a government agency. For a private party to be eligible there must be a clear public benefit. Determinations on which sites will be assessed are done on a priority basis. The state follows EPA guidance on site characterization. A Sampling and Analysis Plan and Quality Assurance Plan that have been approved by EPA are followed.

State Cleanup Program

- Colorado has a small appropriation that is used to clean up contaminated sites. Sites are eligible if they are not listed on the NPL or under enforcement or other action by a government agency. Sites are screened and scored based on human health and environmental impacts and redevelopment potential.

Tax incentives (abatements, credits, etc.):

- Colorado Contaminated Land Redevelopment Tax Credit
- Federal Brownfields Tax Incentive

Other forms of support (environmental insurance, brownfields redevelopment authorities, etc.):

- Colorado Brownfields Revolving Loan Fund may be used for the purchase of environmental insurance.
- CDPHE supports an environmental resource hotline through the Colorado Brownfields Foundation.

Program Elements

Technical Elements

Methods/standards/controls: No formal Risk-Based Corrective Action (RBCA) or comparable/informal process in place; VCP applicants choose from various cleanup standards or perform risk assessments. State allows risk-based closures.

Contaminants covered/excluded: Petroleum, asbestos, lead paint, and polychlorinated biphenyls (PCBs) all OK.

Ground water standards must be met at property boundary.

Use of long-term stewardship and institutional controls (tracking, oversight, monitoring, reopeners): Colorado's long-term stewardship provisions include monitoring, institutional controls, and enforcement. While Colorado does not have enforcement authority under its state Superfund program, the most recent amendments to the Hazardous

Waste Sites Act authorize the use of environmental covenants that run with the land. (Colorado Revised Statutes (CRS) §§ Sec. 25–15–317 through 327). CDPHE may use environmental covenants under the VCP if the owner requests it, however it is not compulsory. If the property owner fails to comply with an environmental covenant, CDPHE may issue an order requiring compliance and may request that the Attorney General bring a suit to enforce the terms of the covenant. Colorado is required to maintain an inventory of all sites and facilities at which hazardous substances have been disposed of in the state under the 2001 amendments to the Hazardous Waste Sites Act. As of July 1, 2001 the state is tracking institutional controls at state cleanup program sites, RCRA cleanup sites, federal facility sites, and VCP sites through the database. The primary users of the system are state officials, with local governments as secondary users. The database will eventually be made available to the public. Colorado is required to create and maintain a registry of all environmental covenants, including any modifications or terminations of the covenants under the 2001 amendments to the Hazardous Waste Sites Act.

Management & Implementation Elements

Voluntary Cleanup Program MOA with EPA: April 1996

Outlines the following: responsibilities of the state to implement the Voluntary Cleanup and Redevelopment Act (allows owners of contaminated properties to voluntarily propose cleanup actions or petition for no further action determinations for eligible sites); forbearance actions of EPA with regard to liability once a contaminated site owner has entered into the remediation program; and the legal responsibilities of all parties during and upon completion of the remedial action.

Costs to enter program or fees for service:

Application fee is \$2,000. Hourly review fee is \$85.

Funding source for administrative costs and staff:

Funding for the VCP is provided by federal grants (20%) and fees gathered from the VCP program (80%).

Cleanup Activities

Sites currently in VCP: From the program's inception through May 2006, there have been approximately 529 applications. Approximately 50 applications are processed each year.

Sites completed under VCP: No information available

Benefits (incentives to participate in the VCP, covenants not to sue, etc.): The VCP offers No Further Action

determinations from the state upon completion and approval of cleanup; protection from Superfund liability under a Memorandum of Agreement (MOA) with EPA; and income tax credit.

Public Participation

Public participation requirements (notice, comment periods, etc.): Colorado has no formal public participation requirements. However, public notice is provided on an ad hoc basis for the voluntary program.

Public Participation requirements for the Colorado Brownfields Revolving Loan Fund:

- A Community Involvement Plan must be developed for each site receiving a loan through this program. The plan will be site specific and will, therefore, be developed only after a redevelopment project has been selected to receive monies from the Fund.

The following criteria will be used as the basis for developing specific plans:

- A spokesperson will be designated to inform the community of actions taken, respond to inquiries, and provide information.
- Prior to approval of the VCP application—the equivalent of an engineering evaluation/cost analysis (EE/CA)—interviews will be conducted with local officials, community residents, public interest groups, or other interested and affected parties, as appropriate.
- Prior to approval, a Community Relations Plan will be prepared based on community interviews and other relevant information. It will specify the community relations activities expected during cleanup.
- At least one local information repository will be established at or near the location of the cleanup action that includes public information related to the cleanup. The public will be informed of the repository and notice provided of the availability of the administrative record for public review.
- Notice will be published of availability of the Voluntary Cleanup Plan in a major local newspaper of general circulation.
- A 30-day opportunity will be provided for written and oral comments on the Cleanup Plan. Upon timely request, the public comment period will be extended by a minimum of 15 days.
- A written response to significant comments will be prepared.

Public participation activities (hearing, meetings, etc.):

No information available

Statutory Authorities

- Title 25–16–301, et seq., *Voluntary Cleanup and Redevelopment Act*.
- The *Hazardous Waste Sites Act* 25–16–101 et seq. (1985, as amended 1988, 1990, 2000, 2001 CRS 25–16–104.6) Fund established—administration—revenue sources—use.

Montana

General Information

Contact: Kelly Schmitt

Address: Montana Department of Environmental Quality (DEQ)
P.O. Box 200901
Helena, MT 59620-0901

Phone: 406 841 5070

Fax: 406 841 5050

Email: kschmitt@mt.gov

Web site: <http://www.deq.state.mt.us/statesuperfund/VCRA.asp>

<http://www.deq.state.mt.us/statesuperfund/brownfields.asp>

Program Description (VCP, brownfields, or related)

Brownfields definition: Montana has no definition of brownfields in statute or regulation and applies the EPA definition when necessary.

Program titles:

- Voluntary Cleanup and Redevelopment Act (1995)
- Brownfields

Liability relief provisions: Program offers closure letters; program can be used by any interested person with the property owner's permission to address all or a portion of a site.

Financial incentives (grants, loans, tax provisions, etc.):

- Loans available through state Board of Investments program may apply to brownfields sites.
- *Controlled Allocation of Liability Act* and orphan share fund offers reimbursement for expenditures beyond applicant's responsibility from an orphan share fund; level depends on available funding.
- Incentives for participation in the voluntary cleanup program include enforcement stays and closure letters.
- DEQ conducts Targeted Brownfields Assessments (TBAs) on qualified sites.

Legislative or program site eligibility requirements: Any person or entity is eligible to participate in the voluntary cleanup program, and all non-National Priorities List (NPL) sites are eligible, although the state is given discretion to reject applications.

In the brownfields program, projects must meet the following criteria to be eligible for Targeted Brownfields Assessment assistance:

- DEQ's assessment assistance must be crucial to the redevelopment or reuse of the site.
- Applicant must not have contributed to the contamination.

- Site must be contaminated or suspected to be contaminated with hazardous substances or petroleum products.
- Must be a clear benefit to the community.
- Site control and ownership transfer must not be an impediment.
- Must be adequate leveraged funds available for cleanup and redevelopment, and/or the site must have strong development potential.
- Petroleum sites must also meet EPA's petroleum site eligibility requirements.

In addition, DEQ has limited resources for TBAs and may not be able to conduct a TBA if the department is not already addressing the site.

Financial Elements

Assessment and cleanup funding (source, amount, relationship to VCP/brownfields programs, application process, eligibility requirements, dedication to special types of sites such as petroleum, dry cleaners, abandoned drug labs, etc.): DEQ receives funding from EPA each year to conduct a limited number of TBAs. A TBA may include a Phase I and/or Phase II assessment through the establishment of cleanup options. DEQ uses one of its contractors to conduct the work at the site.

Tax incentives (abatements, credits, etc.): No information available

Other forms of support (environmental insurance, brownfields redevelopment authorities, etc.): No information available

Program Elements

Technical Elements

Methods/standards/controls: Choice of cleanup levels for the voluntary cleanup program is available. Potential implementation of institutional controls.

Contaminants covered/excluded: All contaminants covered by the voluntary cleanup program, but must represent a release or threat of release to the environment. Under the brownfields program, threats to public health and the environment can be addressed.

Use of long-term stewardship and institutional controls (tracking, oversight, monitoring, reopeners): For the voluntary cleanup program, institutional controls allowed as appropriate. More sites cleaned and reused, but difficult to ensure that institutional controls are appropriate and can be maintained.

Management & Implementation Elements

Voluntary Cleanup Program MOA with EPA: No

Costs to enter program or fees for service: For the voluntary cleanup program, participant must reimburse the state for all administrative costs. Cost recovery is based on

actual cost; there is no standard fee. No costs for the brownfields program.

Funding source for administrative costs and staff:

Brownfields program is funded by CERCLA 128(a) State and Tribal Response Program Grant.

Cleanup Activities

Sites currently in VCP: 40 sites have entered the program.

Sites completed under VCP: 26 sites have completed voluntary cleanups on all or a portion of the site (including no further action), and cleanup is underway at two sites.

Benefits (incentives to participate in the VCP, covenants not to sue, etc.):

- Closure letter
- Faster cleanup
- Enforcement stay

Public Participation

Public participation requirements (notice, comment periods, etc.): The state approves a voluntary cleanup plan and supervises a public comment process. The participant has five years to execute the plan and cannot deviate from the agreed course of action.

Public participation activities (hearings, meetings, etc.):

No information available

Statutory Authorities

- The *Comprehensive Environmental Cleanup and Responsibility Act* (CECRA), Mont. Code Ann. §§75–10–701 through 729, establishes the Environmental Quality Protection Fund and contains priority list, enforcement authority, natural resource damages (NRDs), citizen suit, and property transfer provisions.
- *State Participation in CERCLA*, Mont. Code Ann. §§75–10–601 through 631, establishes the Hazardous Waste/ CERCLA Special Revenue Account and also contains priority list, enforcement authority, NRDs, citizen suit, and property transfer provisions.
- The *Voluntary Cleanup and Redevelopment Act* (VCRA), Mont. Code Ann. §§75–10–730 through 738 authorizes Montana's voluntary cleanup program and contains property transfer provisions.
- In 1997, the state passed the *Controlled Allocation of Liability Act* (CALA), Mont. Code Ann. §§75–10–742 through 752. CALA establishes the orphan share state special revenue account to help pay cleanup costs at non-NPL sites. Montana also has statutory cleanup authority under the *Water Quality Act*, which provides for citizen suits and enforcement authority.

North Dakota

General Information

Contact: Curtis Erickson

Address: North Dakota Department of Health
Division of Waste Management
P.O. Box 5520
Bismarck, ND 58506-5520

Phone: 701 328 5166

Fax: 701 328 5200

Email: cerickso@state.nd.us

Web site: <http://www.health.state.nd.us/ndhd/envIRON/wm>

Program Description (VCP, brownfields, or related)

Brownfields definition: North Dakota has no definition of a brownfields in statute or regulation and applies the federal definition when necessary.

Program titles: No formal program in place.

Liability relief provisions: The Department offers closure letters and No Further Action (NFA) letters.

Financial incentives (grants, loans, tax provisions, etc.): No information available

Legislative or program site eligibility requirements: No information available

Financial Elements

Assessment and cleanup funding (source, amount, relationship to VCP/brownfields programs, application process, eligibility requirements, dedication to special types of sites such as petroleum, dry cleaners, abandoned drug labs, etc.): No information available

Tax incentives (abatements, credits, etc.): No information available

Other forms of support (environmental insurance, brownfields redevelopment authorities, etc.): No information available

Program Elements

Technical Elements

Methods/standards/controls: Cleanup standards are site specific.

Contaminants covered/excluded: Does not restrict on basis of contaminants.

Use of long-term stewardship and institutional controls (tracking, oversight, monitoring, reopeners): Various institutional controls allowed, based on individual sites, future use, location, etc.

Management & Implementation Elements

Voluntary Cleanup Program MOA with EPA: No

Costs to enter program or fees for service: No information available

Funding source for administrative costs and staff: Federal grants

Cleanup Activities

Sites currently in VCP: No information available

Sites completed under VCP: A number of sites have completed cleanup activities.

Benefits (incentives to participate in the VCP, covenants not to sue, etc.): A number of sites have been redeveloped for commercial/retail use and also greenspace.

Public Participation

Public participation requirements (notice, comment periods, etc.): No statutory requirement for public participation exists, but the department provides public notice and provides local officials with information about a site.

Public participation activities (hearing, meetings, etc.): No information available

Statutory Authorities

North Dakota does not have a formal program for cleaning up non-National Priorities List (NPL) contaminated sites.

- The *Hazardous Waste Management Act* (HWMA), N.D. Cent. Code §§23–20.3–01 to 10 (1981, as amended 1983, 1987, 1991, 1994), provides enforcement authority that may be used in conjunction with cleanups.
- The *Water Pollution Control Law* (WPCL) N.D. Cent. Code §61–28–01 et seq. (1967), also provides enforcement authority that may be used in state cleanups.

South Dakota

8 REGION

General Information

Contact: Kim McIntosh

Address: South Dakota Department of Environment
and Natural Resource (DENR)
Ground Water Quality Program
Joe Foss Building
523 East Capitol Avenue
Pierre, SD 57501-3181

Phone: 605 773 3296

Fax: 605 773 6035

Email: Kim.McIntosh@state.sd.us

Web site: <http://www.state.sd.us/denr/DES/Ground/Brownfields/Brownfields.htm>

Program Description (VCP, brownfields, or related)

Brownfields definition: The state uses the same definition for brownfields as defined in federal law.

Program titles: The state has recently approved a formal brownfields program, Brownfields Revitalization and Economic Development Program, which is part of the state's Ground Water Quality Program within the DENR. The state assists local communities in obtaining federal brownfields funding and will enter into voluntary cleanup settlements on a case-by-case basis under state law (S. Dak. Codified Laws (SDCL) Chapter 34A–10–17). The state performs Targeted Brownfields Assessments (TBAs) and will negotiated site-specific agreements. This law also requires that the state establish a Brownfields Revolving Loan Program.

Liability relief provisions: Recent legislation (SDCL Chapter 74:05:12) was passed to establish additional liability provisions for sites designated as brownfields sites by the state.

Financial incentives (grants, loans, tax provisions, etc.):
No information available

Legislative or program site eligibility requirements:
Administrative rules are being drafted to outline the Brownfields Revolving Loan Program, the selection process for qualifying sites and use of state brownfields funds.

Financial Elements

Assessment and cleanup funding (source, amount, relationship to VCP/brownfields programs, application process, eligibility requirements, dedication to special types of sites such as petroleum, dry cleaners, abandoned drug labs, etc.): The state is using Comprehensive Environmental Response Compensation and Liability Act (CERCLA) 128(a) State and Tribal Response Program Grant (Response Program Grant) funds to conduct assessment of brownfields sites. These sites may include mine scarred lands, petroleum sites, and sites impacted by controlled substances. The state has not yet performed an assessment of a controlled substance site but may in the future.

Tax incentives (abatements, credits, etc.): No information available

Other forms of support (environmental insurance, brownfields redevelopment authorities, etc.): No information available

Program Elements

Technical Elements

Methods/standards/controls: The state will use existing ground water and soil standards as well as site specific risk based data. The state will also consider EPA Region 3 and Region 5 Risk-Based Concentrations when determining the need for a cleanup action.

Contaminants covered/excluded: The state regulates hazardous substances, hazardous wastes, toxic substances, petroleum, pesticides, metals, and other substances considered regulated substances under SDCL Chapter 34A–12.

Use of long-term stewardship and institutional controls (tracking, oversight, monitoring, reopeners): The state allows the use of institutional controls on brownfields sites, spills, or releases both in the assessment and remediation phase of the project. The state lacks a mechanisms to track long-term institutional controls.

Management & Implementation Elements

Voluntary Cleanup Program MOA with EPA: No

Costs to enter program or fees for service: The state does not charge parties to enter into the brownfields program or have fees for staff services.

Funding source for administrative costs and staff: The state utilizes its Response Program Grant to fund program development and the oversight of brownfields projects.

South Dakota

Cleanup Activities

Sites currently in VCP: As of July 2004, South Dakota currently has 6 brownfields projects. 3 of the sites are EPA funded projects.

Sites completed under VCP: No information available

Benefits (incentives to participate in the VCP, covenants not to sue, etc.): Projects have not progressed far enough to provide data that would reveal economic benefits. However, each project has a greenspace, park, or recreational aspect to its proposed redevelopment plan.

Public Participation

Public participation requirements (notice, comment periods, etc.): State policy establishes provisions for public notice, public comment, and hearings/meetings. SDCL §1–40–31 provides for document disclosure for all DENR programs.

Public participation activities (hearing, meetings, etc.):
No information available

Statutory Authorities

- The *Regulated Substance Discharge Law*, SDCL Chapter 34A–12 (1988, as amended 1989, and 1995), establishes the Regulated Substance Response Fund, which provides for a cleanup fund, strict liability, administrative order authority, civil injunctive relief, cost recovery, and liens.
- The *Hazardous Waste Management Act*, SDCL Chapter 34A–11 (1983, as amended in 1988, and 1995), establishes standards for treatment, storage and disposal of hazardous wastes, and provides for site access, civil and criminal penalties, and citizen suits.
- The *Water Pollution Control Act*, SDCL Chapter 34A–2 (as amended July 1, 1995), prohibits the degradation of all ground and surface waters of the state, establishes standards for ground water remediation, and imposes criminal and civil penalties for violations.
- The *Environmental Protection Act*, SDCL Chapter 34A–10 (as amended July 1, 1995), allows responsible parties to enter into voluntary compliance and settlement for cleanups.

General Information

Contact: Brent Everett, Superfund Branch Manager
Beverett@utah.gov

Bill Rees
Remedial Projects Section Manager
Brownfields and Voluntary Cleanup
Brees@utah.gov

Address: Utah Department of Environmental Quality
(DEQ)
Division of Environmental Response and
Remediation
168 North 1950 West, First Floor
Salt Lake City, UT 84116

Phone: 801 536 4100

Fax: 801 536 4242

Web site: <http://www.environmentalresponse.utah.gov/>

Program Description (VCP, brownfields, or related)

The Utah State Legislature passed the Voluntary Release Cleanup Program statute in 1997. This legislation created the Voluntary Cleanup Program (VCP) under the DEQ. The purpose of this program is to encourage the voluntary cleanup of sites where there has been a contaminant release threatening public health and the environment, thereby removing the stigma attached to these sites which blocks economic redevelopment. Voluntary cleanup of these sites will hopefully result in clearing the pathway for returning these properties to beneficial use.

Brownfields definition: No information available

Program titles: Voluntary Cleanup Program

Liability relief provisions: Offers a Certificate of Completion (COC) with limited liability relief for non-responsible parties.

Financial incentives (grants, loans, tax provisions, etc.): No information available

Legislative or program site eligibility requirements: All sites eligible except for: 1) a treatment, storage, or disposal facility regulated under the Resource Conservation and Recovery Act (RCRA); 2) that portion of a site that is on the National Priorities List (NPL); or 3) that portion of a site for which an administrative, state, or federal enforcement action is existing or pending against the applicant for remediation of the contaminants described in the application.

Financial Elements

Assessment and cleanup funding (source, amount, relationship to VCP/brownfields programs, application process, eligibility requirements, dedication to special types of sites such as petroleum, dry cleaners, abandoned drug labs, etc.): Program development is funded through CERCLA 128(a) State and Tribal Response Program Grant funding for state response programs. Non site-specific administrative costs are in part funded out of state general funds. Site-specific oversight is paid for by the applicant's agreement.

Tax incentives (abatements, credits, etc.): No information available

Other forms of support (environmental insurance, brownfields redevelopment authorities, etc.): No information available

Program Elements

Technical Elements

Methods/standards/controls: No formal Risk-Based Cleanup (RBC) process in place (except for petroleum contamination). Applicant has a choice of cleanup standards including background values, generic risk-based levels, site-specific risk based levels not relying on institutional controls, site specific risk-based levels relying on institutional controls, and others based on consultation with DEQ.

Contaminants covered/excluded: Does not restrict on basis of contaminants.

Use of long-term stewardship and institutional controls (tracking, oversight, monitoring, reopeners): Institutional controls may be allowed as part of a cleanup strategy—use and review is decided on a case-by-case basis.

Management & Implementation Elements

Voluntary Cleanup Program MOA with EPA: No

Costs to enter program or fees for service: A \$2,000 application fee and an environmental assessment are required at time of application. The fee is used to cover DEQ costs for eligibility assessment and review of the environmental assessment. Any monies remaining from the application fee are applied towards oversight.

Funding source for administrative costs and staff: State general fund (20%) and federal grants.

Utah

Cleanup Activities

Sites currently in VCP: 51 applications received to date.

Sites completed under VCP: Of the 51 applications: 15 certifications of completion (COCs) and 2 no further actions (NFAs) were issued; 25 projects are active; 1 site was ineligible; and 8 projects were terminated.

Benefits (incentives to participate in the VCP covenants not to sue, etc.): Completion under the VCP results in the issuance of a COC that provides a limited release of liability for certain qualified applicants (e.g., non responsible parties).

Public Participation

Public participation requirements (notice, comment periods, etc.): Utah Code (19-8-115) requires that the DEQ make rules regarding provisions for public participation by, and notice to, affected property owners regarding voluntary cleanup decisions. Rules have not yet been promulgated.

Public participation activities (hearing, meetings, etc.): Typically, a 30-day public comment period is required before the DEQ will accept a work plan as final. Additional community involvement activities, such as public meetings, open houses, fact sheets, notices, community interviews, may be recommended and required on a site-specific basis.

Statutory Authorities

Utah Code, Title 19, Chapter 8.

General Information

Contact: Dave Finley

Address: Wyoming Department of Environmental Quality (DEQ)
122 W 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Phone: 307 777 7752

Web site: <http://deq.state.wy.us/volremedi/index.asp>

Program Description (VCP, brownfields, or related)

Enacted in the 2000 session of the Wyoming Legislature, the Voluntary Remediation of Contaminated Sites law sets out a process that can be used by owners of contaminated sites, or by potential developers to reach decisions quickly about required remedial activities and to put contaminated sites back into productive reuses.

Brownfields definition: No information available

Program titles: Voluntary Remediation Program (VRP)

Liability relief provisions: DEQ has three types of liability assurances: Covenant Not to Sue (CNTS), Certificates of Completion (COC), and No Further Action (NFA) letters.

Financial incentives (grants, loans, tax provisions, etc.): No information available

Legislative or program site eligibility requirements: To participate in the VRP a person must submit an application to the DEQ that identifies the owner and provides a location and description of the site. The application shall also describe the site-specific conditions which the applicant believes satisfy one or more of the eligibility criteria of the law (WS 35-11-1602). No later than 45 days after receipt of the application, DEQ shall give written notice to the applicant containing DEQ's determination of the site eligibility for participation in the VRP. Eligible sites shall include sites which meet the following conditions:

- Sites, or portions of sites, where releases occurred before the effective date of this article; and:
 - The site, or portion of site, where the release occurred was not subject to the permit requirements of this act at the time of the release; or
 - The site is covered by an order of the department, council or by any court and entered with the consent of the person or entity.
- Sites, or portions of sites, where releases occurred on or after the effective date of this article and where the owner or operator is implementing a pollution prevention plan consistent with rules promulgated under this act.

- Waste management or disposal units that have been permitted under this act and the director determines that the release from the permitted unit, if restricted or prohibited by the permit, cannot be remediated in accord with the permit requirements because of technical impracticability.

Financial Elements

Assessment and cleanup funding (source, amount, relationship to VCP/brownfields programs, application process, eligibility requirements, dedication to special types of sites such as petroleum, dry cleaners, abandoned drug labs, etc.): No information available

Tax incentives (abatements, credits, etc.): No information available

Other forms of support (environmental insurance, brownfields redevelopment authorities, etc.): No information available

Program Elements

Technical Elements

Methods/standards/controls: Voluntary remediation standards; site-specific, risk-based standards; considerations in choice of remedy; alternate standards for soil; alternate standards for soil or water; point of compliance; contamination from source not on site; alternate remediation standards for site contaminated from source not on site; supplemental requirements.

Contaminants covered/excluded: Wide variety of contaminants are eligible.

Use of long-term stewardship and institutional controls (tracking, oversight, monitoring, reopeners): Uses institutional controls.

Management & Implementation Elements

Voluntary Cleanup Program MOA with EPA: March 2002

Costs to enter program or fees for service: \$350 application fee covers the first 10 hours of oversight. Additional oversight is billed at a rate of \$35/hour.

Funding source for administrative costs and staff: No information available

Cleanup Activities

Sites currently in VCP: 45

Sites completed under VCP: No information available

Benefits (incentives to participate in the VCP, covenants not to sue, etc.):

- Participation in an integrative, flexible, risk-based cleanup process specifically designed to be responsive to local concerns and to support participants.

Wyoming

- Eligibility for a number of liability assurances including CNTS, COCs, and NFA letters.
- Allows use of non-residential (i.e., restricted use) cleanup levels for soil under certain circumstances. Participants are allowed to petition local governments to designate a non-residential use of control areas. These non-residential land use determinations can be used to support alternative, risk-based cleanup levels for soil that are appropriate for the designated land use. All sites not in the VRP must achieve levels that are safe for unrestricted site uses (generally residential uses), regardless of where a site is located.
- Participants may apply to DEQ for a determination that current technology cannot feasibly be used to clean up soil contamination to established levels. If DEQ makes such a determination, site-specific alternative soil cleanup levels that can be achieved with available technology would likely be established in combination with requirements to control exposures to residual contamination to ensure full protection of human health and the environment. Sites not in the VRP are not eligible for this approach.

Public Participation

Public participation requirements (notice, comment periods, etc.):

- Following any determination by DEQ that a site is an eligible site, or following the submission of any application to modify an existing remedy agreement, the owner or operator shall give written notice to all surface owners of record of land which is contiguous to the site, and to all known adjacent surface owners of record of land, and shall publish notice once per week for four consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice published in a newspaper shall be a display advertisement. The notice to individual landowners and the notice published in a newspaper shall identify the site, provide a summary of the criterion in WS 35–11–1602 which makes the site eligible for participation in the VRP under this article, describe the process for the public to request the development of a public participation plan under subsection (b) of this section, and provide a 30-day period for the public to request that a public participation plan be developed.
- For any eligible site where there is significant public interest as determined by the director after considering the factors enumerated in paragraphs (i) through (iii) of this subsection, the person who has submitted an application for participation, or the owner of the site, shall prepare and implement a public participation plan which shall be approved by the director. In preparing the plan, the applicant or owner shall consult with and consider the public participation needs of interested parties, including but not limited to contiguous surface owners of record and all known adjacent surface owners of record of land, local government, local economic

development agencies or groups, and public interest groups. In determining whether there is significant public interest, the director shall consider whether there have been responses to the notice required under subsection (a) of this section requesting the development of a public participation plan by:

- At least 25 individuals;
- An organization representing at least 25 individuals; or
- The governing body of a local government.
- Any owner or operator of an eligible site which is also subject to permitting or corrective action requirements of the hazardous waste rules and regulations promulgated under WS 35–11–503(d) shall prepare and implement a public participation plan which complies with those rules and regulations.
- At a minimum for any eligible site regardless of whether a public participation plan has been required, prior to entering into a remedy agreement, the owner shall give written notice of the proposed remedy agreement to all surface owners of record of land adjacent to the site, and publish notice once per week for four consecutive weeks in a newspaper of general circulation in the county in which the site is located. The notice shall be of a form and content prescribed by DEQ, and shall summarize the proposed remedy agreement, provide a description of the site, provide for a 30-day public comment period after the date of the last publication, and provide an opportunity for an oral hearing. An oral hearing on the proposed remedy agreement shall be held if DEQ finds sufficient interest. DEQ may enter into a remedy agreement following the public comment period or any hearing, whichever is later.

Public participation activities (hearing, meetings, etc.): No information available

Statutory Authorities

Voluntary Remediation Law, WS 35–11–1601